IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA Nos. 107, 188 and 231 of 1997

Judgement reserved on: 19.9.2007

Date of decision: 24.9.2007.

1.RFA No.107 of 1997
The Collector Land Acquisition & another …….Appellants

Vs.

Prem Singh …. Respondent.

2.RFA No.188 of 1997

The Collector Land Acquisition & another …….Appellants

Vs.

Dharamvir and others …….Respondents

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3. RFA No.231 of 1997

The Collector Land Acquisition & another …….Appellants

Vs.

Sunil Kumar & Ors. ……Respondents

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The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?[1] No

For the Appellants : Mr. M.S. Chandel, Advocate General with Mr. M.L. Chauhan, Addl. Advocate General.
(In all the appeals)

For the Respondents : Mr. J.R. Thakur, vice Mr. R.K. Sharma, Advocate.
(In all the appeals)

Kuldip Singh, Judge.

1. This judgment shall dispose of RFA Nos. 107/97, 188/97 and 231/97 arising out of common award dated 31.5.1996 passed by learned Addl. District Judge, Mandi in Ref. petition Nos.26/93, 31/93 and 29/93 respectively.

Whether the reporters of the local papers may be allowed to see the Judgment? Yes

2. The brief facts are that the State of H.P. issued notification under Section 4 of the Land Acquisition Act, 1894 (for short 'Act') which was published in Rajpatra on 20.5.1989, for acquiring land for construction of Machhyal-Kuthehar road. The Land Acquisition Collector (for short 'Collector') announced the award No.26 on 9.7.1992 and awarded a total compensation of Rs.1,16,544/- including interest in respect of the land measuring 8-9-3 bigha . The Collector has awarded compensation at the flat rate of Rs. 4000/- per bigha irrespective of quality of acquired land. Some of the land owners were not satisfied with the amount of compensation awarded by the Collector, therefore, they filed reference petitions under Section 18 of the Act for enhancement. The learned Addl. District Judge consolidated the land reference petitions vide order dated 27.9.1995 and vide impugned award assessed the market value of Dhani Doem land at Rs.8000/- per bigha, Brani Doem land at Rs.6400/- per bigha and Khadetar land at Rs.4480/- per bigha. On the enhanced compensation, the other statutory payments and interest have also been allowed. The appellants have filed the above appeals against impugned award in Ref. petition No.26/93, Ref. petition No.31/93 and Ref. petition No.29/93.

I have heard the learned counsel for the parties and gone through the record. The learned Advocate General has submitted that learned Addl. District Judge has misconstrued and misinterpreted the material on record and has assessed the market value of the acquired land on the higher side and has awarded

excess compensation to the land owners. The learned counsel representing the land owners has supported the impugned award.

4. The learned Addl. District Judge has relied sale deed Ex.PX dated 15.6.1983 which was placed on record in Ref. petition No. 27/93 titled as Nagesh Kumar vs. Collector. PW-8 Dahlu Ram vendee of sale deed Ex.PX has stated that he purchased 1 Biswa 5 Biswansis land for Rs.1000/- in the year 1983 from Kanhaya Lal and as per Khasra Girdwari Ex.P-1 the nature of this land was Dhani Doem. The sale deed Ex.PX is of same village where the land was acquired. The learned Addl. District Judge has assessed the market value of Dhani Doem at 60% of the value as per sale deed Ex.PX, keeping in view the fact that sale deed Ex.PX is of small area and thus learned Addl. District Judge has assessed the market value of Dhani Doem land at Rs. 8,000/- per bigha at the time of acquisition. After assessing the market value of Dhani Doem the learned Addl. District Judge has assessed the market value of Brani Doem land and Khadetar land. RFA No.137 /96 was filed against the award dated 31.5.1996 passed in Ref. Petition No.27/93 by learned Addl. District Judge. This Court in RFA No.137/96 decided on 18.8.2003 has upheld the market value assessed by learned Addl. District Judge with the following directions:-

> *"As a result, the present appeal is partly allowed and while maintaining the market value of the acquired land as assessed by the learned Court below and the direction that the respondents No.1 and 2 shall be entitled to solatium at the rate*

of 30% of the enhanced amount, the impugned award is modified to the extent that the respondents No.1 and 2 shall be further entitled to:-

(a) Additional compensation at the rate of 12% per annum on the market value of the land under Section 23(1A) of the Act from the date of issuance of notification under Section 4 till the date of award; and

(b) Interest under Section 28 of the Act on the enhanced amount at the rate of 9% per annum from the date of issuance of notification under Section 4 of the Act for one year and thereafter at the rate of 15% per annum till the date of payment of the enhanced amount.

Parties are left to bear their own costs".

5. The judgment dated 18.8.2003 in RFA No.137 of 1996 is applicable with full force in the present set of appeals in as much as RFA No.137/96 has arisen out of Ref. Petition No.27/93 which was also decided by learned Addl. District Judge on 31.5.1996 by common award along with Ref. Petition Nos. 26/93, 29/93 and 31/93 out of which the above appeals have arisen.

6. The result of the above discussion is, RFA Nos.107/97, 188/97 and 231/97 are partly allowed and while maintaining the market value of the acquired land as assessed by learned Court below and the direction that the respondents in each appeal shall be entitled to solatium at the rate of 30% of the enhanced amount, the

impugned award is modified to the extent that the respondents in each appeal shall be further entitled to:-

(i) Additional compensation at the rate of 12% per annum on the market value of the land under Section 23(1A) of the Act from the date of issuance of notification under Section 4 till the date of award; and

(ii) Interest under Section 28 of the Act on the enhanced amount at the rate of 9% per annum from the date of issuance of notification under Section 4 of the Act for one year and thereafter at the rate of 15% per annum till the date of payment of the enhanced amount.

7. All appeals being RFA Nos. 107/97, 188/97 and 231/97 are disposed of on the above terms with no order as to costs.

(Kuldip Singh)
Judge.

September 24, 2007
(sks)